

**UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF PENNSYLVANIA**

IN RE: ASHRAFUL ISLAM, Debtor

:NO. 21-10190-amc

**DEBTOR'S MOTION TO HOLD CREDITOR EXCEL FINANCIAL CORPORATION
IN CONTEMPT FOR VIOLATION OF AUTOMATIC STAY,
AND FOR OTHER RELIEF**

Debtor Ashraful Islam, by his attorney Charles W. Campbell, prays your Honorable Court to enter an order finding creditor Excel Financial Corporation in contempt for violation of the automatic stay, and directing said creditor to notify the Montgomery County Sheriff to stay the Sheriff's sale of debtor's property at 407-409 West Main Street, Lansdale, Pennsylvania, and in support thereof avers the following:

1. Debtor is co-owner of the realty situate at 407-409 West Main Street, Lansdale, Pennsylvania (hereinafter "Realty").
2. Creditor Excel Financial Corporation ("Creditor") holds a default judgment which has attached to the Realty.
3. Creditor has filed a praecipe for writ of execution on the judgment, and has caused the Realty to be exposed to sale by the Montgomery County Sheriff.
4. The Sheriff's sale of the Realty has been stayed by the automatic stay imposed by the filing of the within Chapter 13 case.
5. Today, March 29, 2022, debtor received a phone call from the Montgomery County Sheriff at approximately 10:00 a.m. that the Realty was proceeding to sheriff sale tomorrow, March 30, 2022.
6. Although a stipulation for relief from stay was entered into between debtor and Creditor, relief is not authorized under the stipulation. In particular, Creditor was

- required to notify debtor's counsel of default five days before acting upon the alleged default, and to file a Certificate of Default. Creditor sent an email to debtor's counsel on March 8, 2022 claiming that debtor had defaulted. Debtor responded that he had not defaulted, and that he awaited Creditor's filing of a Certificate of Default so that debtor could file his objection to Creditor's Certificate of Default. As of March 29, 2022 at 10:35 a.m., Creditor has failed to file its Certificate of Default with the court, and its failure to do so has prevented debtor from having his objections heard by the court.
7. Accordingly, Creditor's action in directing the Sheriff to proceed with the sale on March 30, 2022 is in violation of the automatic stay.
- WHEREFORE, debtor prays your Honorable Court to enter an order adjudicating creditor Excel Financial Corporation to be in contempt of the automatic stay; directing Creditor to notify the Montgomery County Sheriff to refrain from selling the Realty on March 30, 2022; and for other appropriate relief, including an award of counsel fees to debtor's counsel for \$500 for the time expended in the preparation, filing and hearing of this motion.

/s/ CHARLES W. CAMPBELL

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ORDER

AND NOW, this day of , 2022, it is ORDERED that debtor's motion to hold Creditor Excel Financial Corporation in contempt for violation of the automatic stay and for other relief is GRANTED.

The sale of the real property situate at 407-409 West Main Street, Lansdale, Pennsylvania is stayed pursuant to Section 341 of the Bankruptcy Code. Excel Financial Corporation shall notify the Montgomery County Sheriff forthwith that the sale is stayed by order of the Bankruptcy Court.

The following additional relief is ordered:

BY THE COURT:

B.J.